

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RICHARD PLECHNER,

Petitioner,

v.

RONALD HAYNES,

Respondent.

CASE NO. 3:24-CV-5187-TMC-DWC

ORDER DENYING MOTION TO  
SANCTION AND MOTION FOR  
COUNSEL

Presently before the Court is Petitioner Richard Plechner's Motion for Court to Sanction Mark Fowler and to Order Court-Appointed Counsel. Dkt. 18.

Petitioner requests Court-appointed counsel. Dkt. 18. As the Court has previously stated (Dkt. 14), there is no right to appointed counsel in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required or such appointment is necessary for the effective utilization of discovery procedures. *See McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United States v. Angelone*, 894 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules Governing Section 2254 Cases in the United States District Courts 6(a) and 8(c). The Court may appoint

1 counsel “at any stage of the case if the interest of justice so require.” *Weygandt*, 718 F.2d at 954.  
2 In deciding whether to appoint counsel, the Court “must evaluate the likelihood of success on the  
3 merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the  
4 complexity of the legal issues involved.” *Id.*

5 Here, the Court does not find good cause for granting leave to conduct discovery; thus,  
6 counsel is not necessary to effectively utilize discovery. Further, the Court has not determined an  
7 evidentiary hearing is required. *See* Rules Governing Section 2254 Cases in the United States  
8 District Courts 6(a) and 8(c). Moreover, Petitioner effectively articulated his grounds for relief  
9 raised in the Petition, the grounds are not factually or legally complex, and Petitioner has not  
10 shown he is likely to succeed on the merits of this case. As such, Petitioner has not shown the  
11 interests of justice require the Court to appoint counsel at this time. For these reasons, the request  
12 for counsel is denied without prejudice.

13 Petitioner also requests the Court sanction Respondent’s attorney, Christopher Mark  
14 Fowler. Dkt. 18. Petitioner contends Mr. Fowler has lied to the Court. *Id.* The Court finds  
15 Petitioner’s allegations are not sufficient to warrant sanctions. For example, Petitioner has not  
16 provided credible evidence that Mr. Fowler provided misrepresentations to this Court.  
17 Accordingly, the Court declines to sanction Mr. Fowler.

18 To the extent Petitioner is now attempting to file a traverse, the Court declines to consider  
19 Petitioner’s motion as a response to Respondent’s Answer at this late stage of the case.  
20 Petitioner’s traverse was due on or before July 5, 2024. Petitioner did not file a traverse. When  
21 the Court directed Respondent to supplement the record, the Court specifically stated that no  
22 additional briefing would be accepted. Dkt. 17. Therefore, the Court will not consider  
23 Petitioner’s Motion when issuing a decision on the Petition.  
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1 For the above stated reasons, Petitioner's Motion (Dkt. 18) is denied.

2 Dated this 22nd day of August, 2024.

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4 David W. Christel  
5 United States Magistrate Judge  
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